

DPP: 05/23/03 194651
PATENT & TRADEMARK OFFICE

DA
Attorney Reference Number 1011-64530
Application Number 09/879,828

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Dane et al.

Art Unit: 2161

Application No. 09/879,828

CERTIFICATE OF MAILING

Filed: June 11, 2001

For: INTERFACE BASED DESIGN USING A
TABULAR PARADIGM

Examiner: Unknown

Date: May 23, 2003

I hereby certify that this paper and the documents referred to as being attached or enclosed herewith are being deposited with the United States Postal Service on May 23, 2003, as First Class Mail in an envelope addressed to: ATTENTION OFFICE OF PETITIONS, MAIL STOP PETITIONS, COMMISSIONER FOR PATENTS, PO BOX 1450, ALEXANDRIA, VA 22313-1450


Attorney for Applicant

TRANSMITTAL LETTER

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COMMISSIONER FOR PATENTS
PO BOX 1450
ALEXANDRIA, VA 22313-1450

Enclosed for filing in the application referenced above are the following:

- ☒ Communication Regarding Rescinded Nonpublication Request and Petition for Revival of Application if Necessary
- ☒ Copy of Power of Attorney by Assignee
- ☒ Notice of a Foreign or International Filing Under 35 U.S.C. 122(b)(2)(B)(iii)
- ☒ Petition for Revival of an Application for Patent Abandonment for Failure to Notify the Office of a Foreign or International Filing (37 CFR 1.137(f))
- ☒ Other than small entity – fee \$1,300.00 (37 C.F.R. 1.17(m))
- ☒ Please charge our Deposit Account No. 02-4550 in the amount of \$1,300.00. Two copies of this sheet are enclosed.

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PATENT

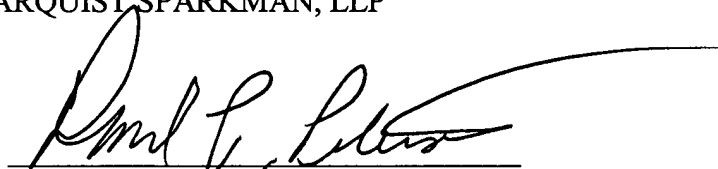
Attorney Reference Number 1011-64530
Application Number 09/879,828

☒ Please return the enclosed postcard to confirm that the items listed above have been received.

Respectfully submitted,

KLARQUIST SPARKMAN, LLP

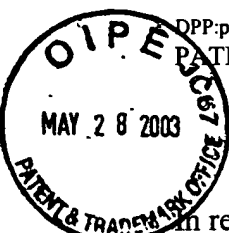
By



David P. Petersen
Registration No. 28,106

One World Trade Center, Suite 1600
121 S.W. Salmon Street
Portland, Oregon 97204
Telephone: (503) 226-7391
Facsimile: (503) 228-9446

cc: Docketing



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Art Unit: 2161

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Filed: June 11, 2001

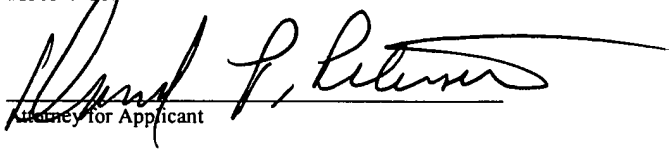
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Attorney for Applicant

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COMMISSIONER FOR PATENTS
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**COMMUNICATION REGARDING RESCINDED NONPUBLICATION REQUEST
AND PETITION FOR REVIVAL OF APPLICATION IF NECESSARY**

Enclosed is a copy of a power of attorney from the Assignee of Record appointing the undersigned attorney.

This communication is being filed in response to the notification published in the Official Gazette on May 6, 2003, concerning the notice requirements of 35 U.S.C. 122. The Official Gazette notice reminded applicants that a request to rescind a nonpublication request is not itself a notice of foreign filing, and that an additional notice of foreign filing may be necessary in certain circumstances.

For the reasons discussed below, the Assignee of the above-referenced application believes that the notification requirements of 35 U.S.C. 122 have been fully met in this application.

If the Patent and Trademark Office (the "PTO") determines that an additional notice of foreign filing was required for this application, however, the Assignee hereby requests the

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Commissioner to accept the enclosed Notice of a Foreign or International Filing and to find that the delay in submitting the notice was unintentional and that the application was never abandoned pursuant to the last phrase of 35 U.S.C. 122(b)(2)(B)(iii). In the alternative, the Assignee hereby requests the Commissioner to accept the enclosed Petition for Revival of the application as being unintentionally abandoned.

The Commissioner is authorized to charge any necessary fees to the deposit account identified below.

BACKGROUND

This application was filed on June 11, 2001, with an accompanying request for nonpublication under 35 U.S.C. 122(b)(2)(B)(i). On September 4, 2001, the request for nonpublication was rescinded using the form authorized by the PTO (Form PTO/SB/36 (11-00)). A copy of this request and of the postcard from the PTO acknowledging the receipt of the request are enclosed as Exhibits A and B. On September 6, 2001, and September 11, 2001, corresponding foreign applications were filed in Europe and Japan, respectively.

No benefit
granted to
c of law
Rec'd
Reg to proceed
on 9-15-01

THE ASSIGNEE HAS COMPLIED WITH 35 U.S.C. 122

The Assignee does not believe it was required to file a separate notification of foreign filing under 35 U.S.C. 122(b)(2)(B)(iii) because the rescission of the nonpublication request did not occur subsequent to the international filing. The Assignee's belief is derived from the plain and unambiguous language of 35 U.S.C. 122(b)(2)(B)(ii), which states that an applicant "may rescind a request [for nonpublication] . . . at any time." The plain meaning of the term "rescind" is "to make void; repeal or annul." *American Heritage Dictionary of the English Language, Fourth Edition*, pg. 1482 (2000). The legal effect of a "rescission" is not merely to terminate an obligation, "but to put an end to it as though it never were." *Black's Law Dictionary, Sixth Edition*, pg. 1306 (1990). Therefore, when the request to rescind the nonpublication request was filed, the application should have been treated as though the nonpublication request was never filed. Consequently, the Assignee was never required to file an additional notice of foreign filing under 35 U.S.C. 122(b)(2)(B)(iii), which applies only to an applicant who has "made a request

under clause (i) but who subsequently files [an application] in a foreign country or under a multilateral international agreement.” The Assignee therefore submits that no additional notice of foreign filing was required in this application.

Even if the Commissioner determines that a separate notice of foreign filing was required, it is the Assignee’s understanding that the PTO considers a request to rescind a nonpublication request as the proper notice of foreign filing. This understanding derives from the “Request to Rescind Previous Nonpublication Request, 35 U.S.C. 122(b)(2)(B)(ii)” form endorsed and distributed by the PTO in 2001. In particular, Form PTO/SB/36 (4-01), which is attached as Exhibit C, includes the following note: “Filing this rescission of a previous nonpublication request is considered the notice of a subsequent foreign or International filing required by 35 U.S.C. 122(b)(2)(B)(iii) and 37 CFR 1.213(c) if this rescission is filed no later than forty-five days [sic] (45) days after the date of filing of such foreign or international application.” The September 4, 2001, request to rescind the nonpublication request submitted in this application was nearly identical to Form PTO/SB/36 (4-01), but did not contain the note. The note, however, is not an affirmative statement by the signing party, but an explanation of how the PTO treats a request to rescind a nonpublication request. The Assignee therefore submits that the September 4, 2001, request to rescind the nonpublication request was a proper notice of a foreign or international filing under 35 U.S.C. 122(b)(2)(B)(iii).

IF NOTICE UNDER 35 U.S.C. 122(b)(2)(B)(iii) WAS NECESSARY,
THE APPLICATION IS NOT ABANDONED

The Assignee was unaware of any potential problems with this application until sometime on or about May 6, 2003, when the relevant notice was published in the Office Gazette. Accordingly, any delay in filing a proper notice was unintentional. If it is determined that a notice of foreign filing was required under 35 U.S.C. 122(b)(2)(B)(iii), the Assignee hereby requests the Commissioner to accept the enclosed Notice of a Foreign or International Filing and to find that the application was never abandoned as the delay in providing the Notice was unintentional. The Commissioner may make such a finding under 35 U.S.C. 122(b)(2)(B)(iii), which provides that “[a] failure of the applicant to provide such notice within the prescribed period shall result in the application being regarded as abandoned, unless it is

shown to the satisfaction of the Director that the delay in submitting the notice was unintentional.” The word “unless” in this subsection conveys the meaning that no abandonment occurs when the delay in providing the foreign filing notice was unintentional.

IF THE APPLICATION IS ABANDONED,
THE ASSIGNEE REQUESTS REVIVAL

If it is determined that the application has become abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii), the Assignee hereby requests the Commissioner to accept the enclosed Petition for Revival under 37 C.F.R. 1.137(b), which includes the requisite notice of a foreign or international filing.


The Commissioner is hereby authorized to charge any fees that may be required in connection with this communication, including any petition fee to Account No. 02-4550. A copy of this communication is enclosed.

If any further information is required, or if the Commissioner has any questions in connection with this communication, the Commissioner is invited to call the undersigned.

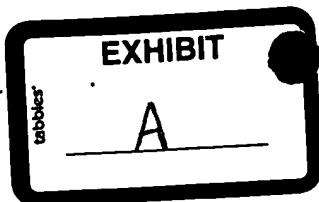
Respectfully submitted,

KLARQUIST SPARKMAN, LLP

By


David P. Petersen
Registration No. 28,106

One World Trade Center, Suite 1600
121 S.W. Salmon Street
Portland, Oregon 97204
Telephone: (503) 226-7391
Facsimile: (503) 228-9446



PTO/SB/36 (11-00)

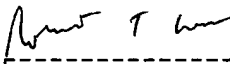
Approved for use through 10/31/2002. OMB 0651-0031
Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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REQUEST TO RESCIND PREVIOUS NONPUBLICATION REQUEST 35 U.S.C. 122(b)(2)(B)(ii)	Application Number	09/879,828
	Filing Date	June 11, 2001
	First Named Inventor	Mark W. P. Dane
	Title	INTERFACE BASED DESIGN USING A TABULAR PARADIGM
	Atty Docket Number	51005.P204
	Group Art Unit	2161
	Examiner	Not Yet Assigned

I hereby **rescind** the previous request that the above-identified application not be published under 35 U.S.C. 122(b).

04 Sept 01
Date


Signature

Robert T. Watt, Reg. No. 45,890
Typed or printed name

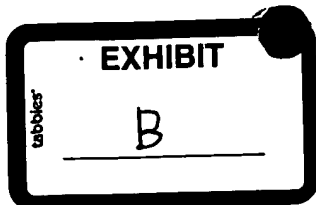
This request must be signed in compliance with 37 CFR 1.33(b).

Burden Hour Statement: This collection of information is required by 37 CFR 1.213(b). The information is used by the public to rescind a previously filed request that an application not be published under 35 U.S.C. 122(b) (and the PTO to process that rescission). Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This form is estimated to take 6 minutes to complete. This time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

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Attorney's Docket No.: 51005.P204 Atty/Sec: RTW/hla
Application No.: 09/879,828 Filing Date: June 11, 2001
Title: INTERFACE BASED DESIGN USING A TABULAR PARADIGM
Client: Mentor Graphics Corporation Inventor(s): Mark W. P. Dane, et al.
Date Mailed: September 4, 2001 Docket Date: n/a

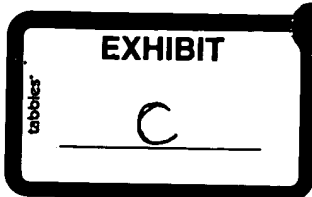
The following items have been received in the U.S. Patent & Trademark Office on the date stamped hereon:

<input type="checkbox"/> Amendment/Response (___pgs.)	<input type="checkbox"/> Info. Disc. Stmt./Form PTO-1449 (___pgs.)
<input type="checkbox"/> Amendment/Response After Final (___pgs.)	<input type="checkbox"/> Issue Fee Transmittal (___pg. - in duplicate)
<input type="checkbox"/> Appeal Brief & two copies (___pgs. each)	<input type="checkbox"/> Notice of Appeal (___pgs.)
<input type="checkbox"/> Application: (___pgs.)	<input type="checkbox"/> Petition for Extension of Time: ___ mos. (___pgs.)
<input type="checkbox"/> Assignment and Cover Sheet (___pgs.)	<input type="checkbox"/> Preliminary Amendment (___pgs.)
<input checked="" type="checkbox"/> Certificate of Mailing	<input type="checkbox"/> Reply Brief (___pgs.)
<input type="checkbox"/> Check No.: ___ Amt: ___	<input type="checkbox"/> Request & Certification Under 35 U.S.C. 122(b)(2)(B)(i) (___pg.)
<input type="checkbox"/> Check No.: ___ Amt: ___	<input type="checkbox"/> Response to Notice to File Missing Parts/PTO-1533 (___pgs.)
<input type="checkbox"/> Declaration/POA (___pgs.)	<input checked="" type="checkbox"/> Return Receipt Postcard
<input type="checkbox"/> Discl. Docs. & Invs' Signed Ltr. (___pgs.)	<input type="checkbox"/> Small Entity Status Claimed
<input type="checkbox"/> Drawings: ___ Sheets, ___ Figures	<input type="checkbox"/> Status Inquiry (___pgs.)
<input type="checkbox"/> Express Mail Label No.: _____	<input type="checkbox"/> Supplemental Amendment (___pgs.)
<input type="checkbox"/> Fee Transmittal (___pg. - in duplicate)	<input checked="" type="checkbox"/> Transmittal Letter (___pg.)
<input checked="" type="checkbox"/> Other: Request To Rescind Previous Nonpublication Request (1 pg.)	

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**REQUEST TO RESCIND PREVIOUS
NONPUBLICATION REQUEST
35 U.S.C. 122(b)(2)(B)(ii)**

Application Number

Filing Date

First Named Inventor

Title

Atty Docket Number

Group Art Unit

Examiner

I hereby **rescind** the previous request that the above-identified application not be published under 35 U.S.C. 122(b).

Date

Signature

Typed or printed name

This request must be signed in compliance with 37 CFR 1.33(b).

Note: Filing this rescission of a previous nonpublication request is considered the notice of a subsequent foreign or International filing required by 35 USC 122(b)(2)(B)(iii) and 37 CFR 1.213(c) if this rescission is filed no later than forty-five days (45) days after the date of filing of such foreign or international application. See 37 CFR 1.137(f) if a notice of subsequent foreign or International filing required by 35 USC 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is **not** filed within forty-five days (45) days after the date of filing of the foreign or international application.

CERTIFICATE OF MAILING OR TRANSMISSION

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner For Patents, Box RCE, Washington, DC 20231, or facsimile transmitted to the U.S. Patent and Trademark Office on:

Name (Print/Type)

Signature

Date

Burden Hour Statement: This collection of information is required by 37 CFR 1.213(b). The information is used by the public to rescind a previously filed request that an application not be published under 35 U.S.C. 122(b) (and the PTO to process that rescission). Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This form is estimated to take 6 minutes to complete. This time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

DPP:pmb 05/23/03 194650
PATENT

Attorney Reference Number 1011-64530
Application Number 09/879,828

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In re Application of: Dane et al.

Art Unit: 2161

Application No. 09/879,828

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Attorney for Applicant

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**NOTICE OF A FOREIGN OR INTERNATIONAL FILING
UNDER 35 U.S.C. 122(b)(2)(B)(iii)**

Subsequent to the filing of the above-identified application, a request to rescind the nonpublication request was filed with a notice of foreign filing and an application was filed in another country, or under a multinational international treaty (e.g., filed under the Patent Cooperation Treaty), that requires publication of applications eighteen months after filing. The filing dates of the subsequently-filed foreign or international applications are September 6, 2001, and September 11, 2001.

The entire delay in filing the notice of a foreign or international filing from any applicable due date for the required notice until the filing of this notice was unintentional.

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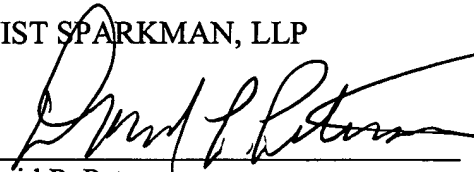
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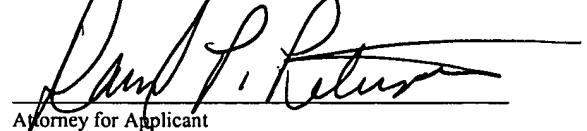
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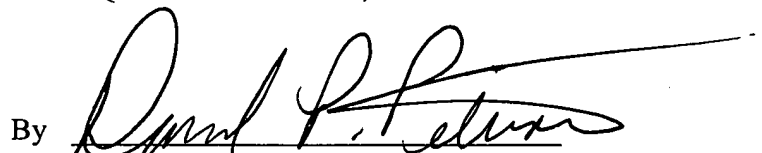
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GROUP 3600

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